

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendments to Part 90 of the	)	WT Docket No. 97-153
Commission's Rules Concerning	)	RM-8584
Private Land Mobile Radio Services	)	RM-8623

Comments of the  
Industrial Telecommunications Association  
and the  
Council of Independent Communications Suppliers

The Industrial Telecommunications Association and the Council of Independent Communications Suppliers, pursuant to the Federal Communications Commission's *Notice of Proposed Rule Making* in the above-referenced matter, hereby respectfully submits these Comments.<sup>1</sup>

**I. Preliminary Statement**

1. The Industrial Telecommunications Association ("ITA") is a Commission certified frequency advisory committee and coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated between 30-900 MHz.

2. ITA is the premier advocate for business and industrial radio system operators, and enjoys the support of a membership that includes more than 6,000 licensed two-way land mobile radio communications users and the following trade associations:

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<sup>1</sup> *Notice of Proposed Rule Making* (FCC 97-239), WT Docket No. 97-153, adopted July 2, 1997, released August 25, 1997, ("Notice").

Alliance of Motion Picture and Television Producers  
Aeronautical Radio, Inc.  
Associated Builders & Contractors, Inc.  
Florida Citrus Processors Association  
Florida Fruit & Vegetable Association  
National Mining Congress  
National Propane Gas Association  
National Ready-Mixed Concrete Association  
National Utility Contractors Association  
New England Fuel Institute  
United States Telephone Association

3. The Council of Independent Communications Suppliers (“CICS”) is an unincorporated association of entities engaged in serving the needs of private radio eligibles, particularly those located in small and rural communities throughout the United States. CICS' membership is open to SMR operators, radio dealers, equipment suppliers, communications engineers and consultants. CICS was formed to provide these entities a voice in the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the Private Land Mobile Radio Services. CICS is an independent market council of ITA.

## **II. Background**

4. On February 10, 1995, CICS filed a petition for rule making requesting that license applications for 154.570 MHz and 154.600 MHz be exempt from frequency coordination requirements.<sup>2</sup> On December 20, 1994, the Alliance of Private 800/900 MHz Licensees (“APEL”) filed a petition for rule making requesting relaxation of mobile loading, reporting, and construction requirements applicable to private systems operating in the 800 and 900 MHz bands.<sup>3</sup> As the

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<sup>2</sup> RM-8623.

<sup>3</sup> RM-8584 (APEL ceased independent operations in 1995, all of its advocacy activities have been assumed by ITA. For ease of reference, RM-8584 will still be referred to herein as the “APEL petition”, however ITA now comments on behalf of APEL in support of this

sponsors of the petitions that have generated the instant rule making proceeding, ITA and CICS are pleased to have the opportunity to present these comments.

### **III. Comments**

#### **a. RM-8623 -- Frequency Coordination for 154.570 MHz and 154.600 MHz**

5. In 1995, when CICS filed its petition for rule making, it argued that because these so-called “color dot” frequencies were both low power and mobile, frequency coordination had no demonstrable use. CICS stated that the 2-watt limitation on these frequencies minimized the potential for co-channel or adjacent channel interference. CICS further argued that because of the mobile nature of these licenses, any interference potential would be random and unpredictable, and therefore uncoordinatable. CICS continues to believe in these statements, and supports the Commission’s proposal to remove the coordination requirement for these frequencies.

6. CICS also notes that since the filing of its petition, the Commission, in the “refarming” proceeding, designated three additional mobile frequencies in the Business Radio Service for low power use, frequencies 151.820, 151.880, and 152.940 MHz.<sup>4</sup> For the reasons expressed above, CICS supports the Commission’s proposal to exempt these frequencies from coordination requirements.

#### **b. RM-8584 -- 800 and 900 MHz Loading, Reporting, and Construction Requirements**

7. On December 20, 1994, APEL filed a petition for rule making requesting that the

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petition).

<sup>4</sup> See In the Matter of Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, *Report and Order*, PR Docket No. 92-235, 10 FCC Rcd 10076, ¶¶ 98-101 (1995) (*Refarming Report and Order*).

Commission amend its rules to create a uniform licensing scheme for systems operating in the 800 and 900 MHz bands.<sup>5</sup> Specifically, APEL asked the Commission to relax its rules concerning mobile loading, reporting, and construction requirements for non-SMR licenses in these bands granted prior to June 1, 1993.

**i. Mobile loading requirements**

8. In its petition for rule making, APEL pointed out that two Commission actions had relaxed the mobile loading requirements for all 800 MHz licensees, except for non-SMR systems licensed before June 1, 1993.<sup>6</sup> APEL argued that applying the loading requirements to non-SMR systems, while not applying them to SMRs was arbitrary, and served no practical purpose. Accordingly, APEL requested that the Commission amend its rule 90.631 by deleting sections 90.631(b) and 90.631(i) in order to exempt non-SMRs licensed prior to June 1, 1993, from channel loading requirements.<sup>7</sup>

9. In the instant *Notice of Proposed Rule Making*, the Commission states that because mobile loading requirements only apply to licenses under their original license term, and because any license granted prior to June 1, 1993, will be due for renewal in 1998, that circumstances make it impractical to eliminate the loading requirement before its natural expiration.<sup>8</sup> Therefore, the Commission has

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<sup>5</sup> APEL Petition at 3-4.

<sup>6</sup> See *Report and Order*, PR Docket No. 86-404, 3 FCC Rcd 1838 (1988) (exempting all 800 MHz systems licensed on or after June 1, 1993 from channel loading requirements), *Third Report and Order*, GN Docket No. 93-252, 9 FCC Rcd 8082 (1994) (exempting SMR systems licensed prior to June 1, 1993, from the channel loading requirement).

<sup>7</sup> See 47 C.F.R. § 90.631.

<sup>8</sup> *Notice* ¶16.

declined to propose any rule change concerning the elimination of mobile loading requirements for non-SMR systems.

10. The Commission is correct in stating that a relaxation of the mobile loading requirement at this point would be of little value. All trunked non-SMR systems authorized prior to June 1, 1993, (including slow growth authorizations) will have already met their mobile loading requirements, or lost their authorization. However, ITA respectfully suggests that the mobile loading requirements would not have become moot if the Commission had acted on the APEL petition in a more timely fashion. Because the petition for rule making was not acted on, industrial, business, public safety, and land transportation system licensees have not been afforded the same flexibility in system implementation that has been enjoyed by commercial systems.

#### **ii. Reporting requirements**

11. Because the mobile loading requirement is due to expire in 1998, and because nearly all trunked non-SMR systems have completed their loading requirements, the attendant reporting requirement is effectively moot. At this late date ITA doubts that a rule making eliminating the reporting requirement would be completed prior to the expiration of the rule.

#### **iii. Construction requirements**

12. Also in its 1994 petition, APEL requested that the Commission modify its rules to conform the construction periods for all trunked and conventional systems.<sup>9</sup> Section 90.631(e) of the Commission's rules requires that trunked systems be constructed within 12 months.<sup>10</sup> Section

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<sup>9</sup> APEL Petition at 6.

<sup>10</sup> 47 C.F.R. § 90.631(e).

90.633(c) requires that conventional systems be put in operation within eight months.<sup>11</sup> APEL pointed out that the vast majority of conventional systems are devoted to internal business communications, rather than subscriber-based communications.<sup>12</sup> Since internal-use system applications are not filed unless and until the system operator needs the increased capacity to fulfill its communications requirements, there is little need to enact measures to ensure prompt construction of licensed systems.<sup>13</sup> Accordingly, APEL argued that allowing one year for the construction of conventional systems would not introduce any significant degree of inefficiency in the use of the licensed frequencies.<sup>14</sup>

13. The Commission, in the subject *Notice of Proposed Rule Making*, proposes to adopt the changes requested in the APEL petition, and proposes to amend its rules to allow a one-year construction period for all 800 and 900 MHz conventional trunked systems.<sup>15</sup>

14. ITA supports this proposal. Adopting a one-year construction period for conventional systems will have the benefit of relieving licensees from requesting construction extensions in those cases where the construction process requires more than eight months, but would be completed within one year. Further, there is a benefit in conforming the construction periods for conventional and trunked systems as a means of simplifying the presently diverse regulatory requirements. A one-year construction period for both conventional and trunked systems at 800/900 MHz will make it

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<sup>11</sup> 47 C.F.R. § 90.633(c).

<sup>12</sup> APEL Petition at 7.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Notice* ¶ 18.

easier for licensees to comply with the Commission's rules.

#### **IV. Conclusion**

15. ITA and CICS continue to support the policies and principles advocated in the CICS and APEL petitions. Accordingly, ITA and CICS support the Commissions proposals in this *Notice of Proposed Rule Making* insofar as they reflect the rule changes proposed by CICS and APEL.

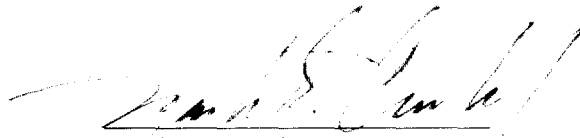
Respectfully Submitted,

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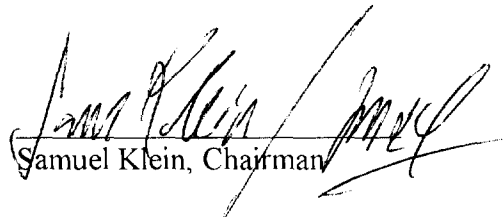
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